

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON**

In Re:

GENERAL ORDER NO. 98-2

RENUMBERING REFERENCES IN LOCAL
BANKRUPTCY RULES TO CORRESPOND TO
AMENDMENTS TO DISTRICT COURT LOCAL
RULES; FINAL PROFESSIONAL COMPENSATION
APPLICATIONS; ADMINISTRATIVE CLAIMS FOR
FEES IN CONVERTED CASES; DISPOSITION OF
FUNDS IN CASES CONVERTED/DISMISSED FROM
CHAPTER 13; MOTIONS TO USE CASH COLLATERAL
OR TO OBTAIN CREDIT; AUDIO/VISUAL EQUIPMENT;
AND STORAGE OF SEALED DOCUMENTS

IT IS ORDERED that the following provisions are, unless otherwise noted, effective as to all bankruptcy cases pending in this court under any chapter of the Bankruptcy Act or Code on or after THE FILED DATE OF THIS ORDER and all adversary proceedings related thereto:

1. Amendments to the District Court Local Rules (LRs) became effective June 1, 1998, and certain sections of those Rules are incorporated by reference into the Local Bankruptcy Rules (LBRs). The LBRs are therefore amended as follows to correspond to the changes made in the numbering of the amended LRs:

a. In the LBR Table of Contents, references to LR 110 found as a subsection of LBR 9010-1.A. are amended to refer to LRs 83.1 through 83.12, and the reference to LR 110-9 is deleted.

b. LBR 7016-1. - References to LRs 235-2(b) and (c) are amended to refer to LRs 16.6(b) and (c). Reference to 235-2(b)(1) is amended to refer to LR 16.6(b)(1).

c. LBR 7026-1.A. - Reference to LR 205-1(b) is amended to refer to LR 16.2(b); references to LRs 220-4(a), (b), (c) and (d) are amended to refer to LRs 7.3(a), 7.1 (f)(1), 7.1(f)(3) and 7.3(b); reference to LR 230 is amended to refer to LRs 26.5(c), 30.2, 30.3, 30.5, 30.6, 30.8, 33.1(c) and (d), 33.2(a) and (b), 33.3(b), 33.4, 34.1(c), 34.2,

34.3, 36.1(c), 36.2, 37.1, 37.2 and 37.3; and reference to LR 230-1(a) is deleted.

d. LBR 7056-1.A. - Reference to LR 220-9 is amended to refer to LR 56.1.

e. LBR 9010-1. - Reference to LR 110 in subsection A.1.a. and the title of A.2. are amended to refer to LRs 83.1 through 83.12; reference to LR 110-1 in subsection A.2.b. is amended to refer to LRs 83.1(b) and 83.2; reference to LR 110-5 in subsection A.2.c. is amended to refer to LR 83.10; reference to LR 110 in subsection A.2.d. is amended to refer to LR 83.5; subsection A.2.f. is deleted in its entirety as it is no longer included in the LRs; and the Pro Hac Vice provisions found in LR 83.3 are applicable except that there is no admission fee, and the application for admission must be submitted to the clerk of the bankruptcy court using LBF #120.

f. LBR 9015-1.A. - Reference to LR 245 is amended to refer to LRs 47, 48, and 51.1.(d) and (e).

g. LBR 9015-1.D. - References to LRs 235-2(b) and (c) are amended to refer to LRs 16.6(b) and (c).

2. LBR 2016-1.D.1. is amended to read as follows:

Form. Except as provided below, final applications for compensation must be filed using LBF #345; and, if seeking reimbursement of expenses, the requirements of LBR 2016-1.C. apply. An applicant shall file a final fee application even if an interim application is pending or court awards have been ordered but remain unpaid. An Attorney's Disclosure Statement filed pursuant to FRBP 2016(b) shall not be considered as an application for compensation or reimbursement.

LBF #345 is not required, however, for use by non-attorney professionals employed by case trustees pursuant to LBFs #753.50 for an auctioneer, #753.55 for a liquidator, #753.58 for a collection agency, #753.60 for a real estate broker, #753.70 for an accountant, or #753.80 for an appraiser; or for use by Chapter 11 real estate brokers or auctioneers.

3. LBR 2016-1.G. is amended to read as follows:

All applications for administrative claims for fees earned while a case was being administered under a previous chapter of the Code shall be filed as required

by LBR 2016-1.D. for cases converted to Chapter 7 or 11, LBR 2016-1.E. for cases converted to Chapter 12, or LBR 2016-1.F. for cases converted to Chapter 13. Additionally, any application combining a request for fees during the time a case was in more than one chapter shall provide all the required information for each chapter, separate such information into sections for each chapter, and be filed in the appropriate format for each chapter.

4. LBR 3015-1.B. is amended to add a new subsection 8. which reads as follows:

8. Disposition of Funds in Trustee's Possession Upon Conversion/Dismissal of Case From Chapter 13 to Chapter 7. In cases converted from Chapter 13 to Chapter 7 in which the Chapter 13 trustee possesses funds aggregating more than \$1,000 at the time of conversion, the Chapter 13 trustee shall forward all the funds to the debtor, in care of debtor's attorney, if any, 10 days after the first scheduled 341(a) meeting in the Chapter 7 case unless prior to that date the Chapter 7 trustee files and serves a written objection pursuant to 348(f)(2). In the event the funds in the trustee's possession at such time of conversion aggregate \$1,000 or less, or in the event the case is dismissed, the trustee shall forward all funds in the trustee's possession to the debtor in care of the debtor's attorney, if any. These requirements shall supersede the provisions in confirmation orders on LBF #1350.1 to the contrary, regardless of whether those orders are entered before or after the effective date of this Rule. In cases in which the Chapter 13 trustee is directed by this Rule to make disbursement after the deadline established by LBR 2015-3.C. for the Chapter 13 trustee to file a final account, the deadline to file the final account shall be 20 days after the first scheduled 341(a) meeting in the Chapter 7. Nothing in this Rule is to be construed as a determination of the rights of the parties to such funds.

5. Effective as to all motions for court approval to use cash collateral or to obtain credit filed on or after November 2, 8, LBR 4001-1.D. is amended to renumber subsections 1. and 2. as 2. and 3., respectively, and to add a new subsection 1. which reads as follows:

1. General. Each motion for court approval to use cash collateral or to obtain credit must clearly

either: (a) state that it does NOT contain any of the provisions listed in LBR #541.7 that the court normally will not approve, or (b) identify any such provision and explain the justification for the provision.

6. LBR 7001-1. is amended to add a new subsection H. which will be entitled "NONPERMISSIBLE STIPULATIONS" and read as follows:

Parties may not stipulate to change any of the following without a court order approving such stipulation, which must be obtained at least three business days prior to the scheduled date:

- a. Deadlines established by the case scheduling order;
- b. Pre-trial conference date;
- c. Court scheduled telephone conference date;
- d. Pre-trial order lodging date;
- e. Dates for lodging trial briefs, exhibits or witness lists; or
- f. Trial date.

7. LBRs 9013-1.F. and G. are renumbered 9013-1.G. and H., respectively, and a new subsection F., entitled "NONPERMISSIBLE STIPULATIONS" is added and reads as follows:

LBR 7001-1.H. applies.

8. LBR 9017-1.C.1. is amended to read as follows:

Counsel is responsible for providing all audio and/or video equipment for use in court proceedings, except to the extent the court can make such equipment available per LBR 9017-1.C.2. Counsel should make arrangements in advance of the proceedings with the courtroom deputy clerk to move the equipment through security, and position it in the courtroom.

9. The title of LBR 9037-1.C. is amended to read "RETURN OR STORAGE" and the text is amended to read as follows:

Because the National Archives (fka Federal Records Center) prohibits storage of sealed records or documents, the clerk must unseal all documents in

cases prior to shipment of any record to the National Archives. Therefore, not later than 60 days after a case has closed, or within 60 days after the conclusion of any appeal, any party may file and serve a motion, which shall have a copy of the original court order that sealed such document attached, to have the clerk return a document ordered to be sealed. If the court enters an order to return a sealed document to a party, then the party to whom the document will be returned must supply the clerk with a SASE (or make other appropriate arrangements for delivery of such document). Unless otherwise restricted by federal law, and absent a timely written motion for return, the clerk is authorized to unseal all previously sealed documents, cases, and proceedings, without further court order, before a record is shipped to the National Archives.

DATED: 10/8/98

/s/
POLLY S. HIGDON
Chief Bankruptcy Judge